

Independent Claims 1, 11, 15, 19, and 22 as presently amended include the limitation of executing the diagnostic software without using an operating system stored within the computer system to be diagnosed. Fawcett, on the other hand, teaches diagnosing a computer system using services and applications, such as Device Manager, within an operating system, such as Windows® 95, stored within the computer system to be diagnosed.

In order to establish a *prime facia* case of obviousness, the Office Action must provide some “suggestion or motivation, either in the references...or in the knowledge generally available to one of ordinary skill in the art”, MPEP §2142, “*Establishing a Prima Facie Case of Obviousness*”, to do what applicant has done.

Neither Fawcett nor Culley suggest a motivation to do what is claimed by applicant in Claims 1, 11, 15, 19, and 22, as presently amended. Culley is motivated by and suggests a desire to retrieve from a computer system fault data collected by fault collection circuits within the computer system in order to achieve remote diagnosis of the computer system. Fawcett is motivated by and suggests a desire to remotely diagnose a customer computer system over the same phone line that the customer uses to call a technical support agent by using applications available within the operating system of the computer system to be diagnosed.

Applicant, on the other hand, presently claims diagnosing a computer system computer system independent of whether the operating system of the computer system to be diagnosed is functional. As such, applicant does not claim using an operating system stored within a computer system to be diagnosed to either execute or diagnose the computer system.

Applicant, therefore claims a novel, non-obvious method and apparatus of remotely diagnosing a computer system for which there is no motivation suggested in the cited art.

Therefore, presently amended Claims 1, 11, 15, 19, and 22 cannot be said to be obvious under Culley and in view of Fawcett.

As to any remaining combinations formed by dependant claims and not specifically addressed, applicant does not concede that they are anticipated or obvious. Rather, rejections of these claims are overcome since at least the base combination is not anticipated or obvious in view of the prior art. Consequently, applicant submits that there also can be no motivation shown in the art to form the additionally limited combination claimed in such dependent claims since the prior art does not anticipate nor make obvious the base combination.

It is respectfully submitted that in view of the remarks set forth herein, the above rejections have been overcome. Accordingly, applicants respectfully submit that claims 1-22 are in condition for allowance.

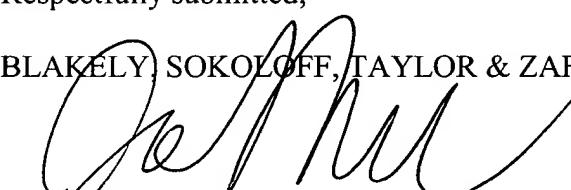
If a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact John Ward at (408) 720-8300.

Please charge any fees not covered by any checks submitted herewith to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

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